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JUN 29 2004

OFFICE OF PETITIONS

In re Application of
Gramling
Application No. 10/623,222
Filed: July 21, 2003
Attorney Docket No. P-7988
For: GUTTER RETAINING SYSTEM

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: DECISION GRANTING
: PETITION
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This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed May 28, 2004, requesting that the above-identified application be accorded a filing date of July 21, 2003.

The application was deposited on July 21, 2003. On December 8, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (Notice) informing petitioner that drawings of applicant's invention were missing and that the filing date of the application would be the date drawings were submitted.

In response to the Notice, petitioner timely filed a petition on December 19, 2003 (Express Mail date December 18, 2003). Petitioner requested that Office accord a July 21, 2003 filing date to the application on the basis that the allegedly omitted drawings were received in the Patent and Trademark Office (PTO) on July 21, 2003.

Unfortunately, petitioner did not submit any evidence, such as an itemized date stamped return receipt postcard, that proves the omitted drawings were received in the Office on July 21, 2003. Therefore, the petition was dismissed.

The present reconsideration petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing July 21, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 3 pages of drawings.

The return postcard constitutes *prima facie* evidence that 3 pages of drawings were filed on July 21, 2003. MPEP 503. Accordingly, the request is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing,

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with a filing date of **July 21, 2003**, using the copy of the 3 pages of drawings submitted with the instant petition. Office records will be corrected to show that 3 pages of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

A handwritten signature in black ink, appearing to read "E. Shirene Willis". The signature is written in a cursive, flowing style.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions